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**VIA: US MAIL**

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Milasol Gaslan  
California Regional Water Quality Control Board  
Santa Ana Region  
3737 Main Street  
Riverside, CA 92501-3348

***Water Quality Management Plan (WQMP) for San Bernardino County Areas***

Dear Ms. Gaslan:

On behalf of the more than 3,300 member companies of the Construction Industry Coalition on Water Quality (CICWQ), we would like to thank the Santa Ana Regional Water Quality Control Board (Regional Board) for this opportunity to express our concerns with the draft Water Quality Management Plan (WQMP).

CICWQ is comprised of the four major construction and building industry trade associations in Southern California. These include the Associated General Contractors of California (AGC), the Building Industry Association of Southern California (BIA/SC), the Engineering Contractors Association (ECA) and the Southern California Contractors Association (SCCA). These organizations work collectively to provide the necessary infrastructure and support for the region's business and residential needs.

The membership of CICWQ is comprised of construction contractors, labor unions, landowners, developers, and homebuilders throughout the region and state. All segments of the coalition are impacted by the draft WQMP, including construction employees who rely on jobs in the region, landowners within the Board's San Bernardino County jurisdictional boundaries and potential builders who require land resources to satisfy the ever-growing demand for housing.

CICWQ is very supportive of the Regional Board's efforts to develop new ways for enhancing our quality of life through improved water quality. However, the building and construction industries want to ensure that these efforts are practicable, achievable and will result in improved water quality.

Based on the foregoing, we ask that you consider the following comments pertaining to the draft WQMP and that you work with CICWQ to find solutions that will protect jobs, housing and water quality for the residents in our region.

## **Executive Summary**

**Page E-1 second paragraph** states the following:

*An effective and acceptable program will require that sponsors of covered development and redevelopment projects develop and implement a project-specific Water Quality Management Plan (WQMP) that meets the following requirements:*

- *The pollutants in post-development runoff shall be reduced using controls that utilize best available technology (BAT) and best conventional technology (BCT).*

Comment: The MEP standard is the applicable standard for post-construction discharges from development. This issue was addressed during the Orange County WQMP debate and it was settled with BAT/BCT language being dropped from the Model WQMP. There is no reason for the San Bernardino WQMP to be different than the Orange County WQMP on this issue.

## **Section 2 WQMP Contents**

**1. Section 2.1 Project Information and Certification (fifth bullet)** requires the following:

*A signed statement (with date) certifying that the provisions of the WQMP have been accepted by the applicant and that the applicant will have the plan carried out by future successors (transferability statement).*

Comment: The last part of this requirement is not feasible. The applicant may be able to verify maintenance acceptance from the first buyer, but beyond that has no control over ongoing maintenance. Therefore, the signed statement should be for acceptance of maintenance until it is transferred to the first buyer.

**2. Section 2.3.1 Site Design and Source Control BMPs** states the following:

*The following site design and source control BMPs must be implemented for all projects.*

Comment: Many of the required BMPs listed in Table 2-2 may not be feasible or applicable to a given site. Therefore, the discussion of BMPs should be written such that a combination of site design, source control, and treatment control BMPs or regional or watershed-based programs that adequately address all identified pollutants and hydrologic conditions of concern is required. This is the wording that is used in the Orange County WQMP and provides the necessary flexibility to choose and implement the most effective combination of BMPs applicable to a certain project, without being mandated to implement a particular BMP, such as pervious pavement. The description of the various types of BMPs listed in the WQMP can then be used by the applicants as potential BMPs available to help meet the conditions of concern.

**3. Section 2.3.1 Vehicle Washing Areas** states the following:

*In multi-family developments, and in developments having a common parking area, a designated car wash area where car washing or rinsing is not specifically prohibited via CC&Rs or other acceptable means, and in developments having a common parking area where car washing or rinsing is not specifically prohibited via CC&Rs or other acceptable means, a designated car washing area and rinsing area that does not drain directly to a storm drain shall be provided for common usage. Wash waters and rinse waters from this area must either be directed to the sanitary sewer (with prior approval of the sewer agency), to an engineered filtration system, or an equally effective alternative.*

Comment: The requirement to have multifamily developments provide a designated car wash area for common usage is way beyond the intent of the Permit and is infeasible, especially considering that multifamily developments are critical to help alleviate the housing supply and affordability crisis. It seems that this requirement would impose an environmental justice issue for certain areas. This is due to the increased cost, ultimately assumed by the homeowner, associated with installation and maintenance of a designated car wash area or with having to take their vehicles to a commercial car wash.

**4. Section 2.3.3 Treatment Control BMP Design Criteria** states the following:

*The obligation to install Treatment Control BMPs at new development sites is met if for a common scheme of development; BMPs are constructed with the requisite capacity to serve the entire common scheme, even if certain phases of the common scheme may not have BMP capacity located on that phase. BMP capacity must be functional before any phased work begins, thus may not be added on at the end of phased development.*

Comment: This is not consistent with the wording of the Permit and should therefore be changed such that it is consistent with the Permit. The Permit does not contain the last sentence in its requirements. In addition, the adopted Orange County WQMP states that “The shared BMPs shall only be required to treat the dependent developments or phases of development that are in use” and “Interim stormwater Treatment BMPs that provide equivalent or greater treatment than is required by this section may be implemented by a dependent development until each shared BMP is operational.” The San Bernardino WQMP should take the same approach to this issue.

**5. Sections 2.3.3.1 and 2.3.3.2 Identify the drainage area** states the following:

*This includes all areas that will contribute runoff to the proposed BMP, including pervious areas, impervious areas, and off-site areas, whether or not they are directly or indirectly connected to the BMP.*

Comment: It is not the requirement of the project proponent to treat the off-site areas of their development. This requirement is also not specified in the Permit or in the Orange

County WQMP. The off-site area requirement should be deleted from the drainage area calculations for flow-based and volume-based design.

**6. Section 2.4 Operations and Maintenance** states the following:

*Operation and maintenance (O&M) requirements for all Source Control and Treatment Control BMPs shall be identified within the WQMP. The WQMP shall include the following:*

- *Identification of each BMP that requires O&M*
- *Thorough description of O&M activities, the O&M process, and the handling and placement of any wastes*
- *BMP start-up dates*
- *Schedule of the frequency of O&M for each BMP*
- *Identification of the responsible parties for O&M, including a written agreement with the entities responsible for O&M*
- *Self-inspections and record keeping requirements for BMPs (review local specific requirements regarding self-inspections and/or annual reporting), including identification of responsible parties for inspection and record keeping*
- *Thorough descriptions of water quality monitoring (if locally required)*
- *Signed statement (with date) accepting responsibility for maintenance, repair, replacement, and inspection of BMPs. O&M requirements must be transferred to future site owners as described in Section 4.2.*
- *Local jurisdiction should have authority to maintain the BMP, if necessary, and invoice the owner for costs.*

Comment: These requirements are above and beyond the intent of the Permit. The Permit requires that the WQMP identify the responsible party for maintenance of the treatment systems, and a funding source or sources for its operation and maintenance. It does require all of the above listed requirements and therefore they should be deleted or revised to meet the intent of the Permit.

**7. Section 3 Regional-Based Water Quality Control** states the following:

*For watersheds, sub-watersheds, drainage areas and other areas covered by a comprehensive master plan of drainage and water quality control approved by the Agency since April 26, 2002, regionally-based treatment control BMPs are an alternative approach*

*to on-site Treatment Control BMP implementation. Regionally-based BMPs may provide a more effective and cost efficient runoff treatment control mechanism for multiple new development and redevelopment projects within the area covered by the comprehensive master plan of drainage and water quality. When regionally-based BMPs are utilized, the development and redevelopment project must continue to implement site design and source control BMPs. Regionally-based treatment control BMPs can treat stormwater from several source areas at a single or multiple downstream location(s). This approach can be effective when limited space is available for structural BMPs in development and redevelopment areas.*

*Regionally-based treatment control BMPs will be considered for acceptance by the Agency as an alternative to on-site measures if the project applicant demonstrates the following:*

Comment: It is good to see that the Regional Treatment option is offered as an alternative, but it should actually be encouraged as is the case with the Permit and the Orange County WQMP. In addition, this section seems to only focus on master-planned and multiple developments. The idea of regional-based water quality control is to look at the watersheds as a whole and determine where it is more economical and feasible to remove the pollutants on a regional-scale as opposed to an on-site scale. This will entail the involvement of the municipalities as well as the development community. As you know, Brown and Caldwell's April 2003 study entitled, "Regional Solutions for Treating Stormwater in Los Angeles County: A Macrofeasibility Study", provides that regional mitigation facilities have the following goals and benefits:

1. Water Quality Improvements
  - a. Treat storm water from existing development as well as new development and redevelopment
  - b. Regional, or watershed, facilities can be optimally located and sized to reduce pollutant loads from all tributary areas
  - c. Regional, or watershed, facilities can address both dry-weather flows and wet-weather flows
  - d. Regional, or watershed, facilities can enhance water quality to a greater degree by providing larger areas for more highly effective, land-intensive treatment methods, such as filtration technologies
  - e. Regional, or watershed, facilities can be more easily upgraded to meet future water quality regulations
  - f. Regional, or watershed facilities treat an entire sub-watershed and not just new development, or redevelopment, thus overall improvements in water quality can be realized more quickly
2. Cost-effectiveness
  - a. Regional, or watershed facilities are inherently more cost-effective to construct and maintain
  - b. Economies of scale enable greater pollutant reductions for the capital and ongoing operation and maintenance costs expended.
3. Long-term Maintenance

- a. Surveys of maintenance effective of on-site facilities on private land have shown that the majority were failing due to lack of maintenance
  - b. Regional, or watershed facilities have a much higher likelihood of being maintained properly so they operate in perpetuity
4. Beneficial reuse of stormwater
  - a. Urban runoff is increasingly being viewed as a potential resource, especially given the water supply challenges that California currently faces
  - b. Regional, or watershed facilities offer the flexibility for future enhancements that would support integrated resource planning and make better overall use of limited water supplies
5. Multiple uses
  - a. Because of their larger size and jurisdiction, regional, or watershed facilities present more opportunities to serve multiple purposes
  - b. Regional, or watershed, facilities can often provide other values, such as, habitat improvements, public park and/or recreation facility creation or enhancement, and green space preservation

Therefore, we suggest starting with the wording on this topic from the Orange County WQMP and editing as is appropriate for the differences between San Bernardino County and Orange County.

**8. Section 4 Changes in Site Development or Ownership** states the following:

**4.2 Changes in Site Ownership**

*For sites with a fully implemented WQMP, the WQMP requirements shall transfer to all future owners of the project site. Recording the WQMP requirements against the title to the property is one way to effectively notify potential buyers and future owners of properties of their responsibilities for the WQMP. New owners have the option to adopt the existing WQMP, to amend the WQMP, or to develop a new WQMP. If the WQMP is amended or if a new WQMP is developed, the amended or new WQMP must be in accordance with this guidance document, must address cumulative changes to the project site, and must be submitted to the Agency for approval.*

Comment: This requirement is above and beyond the intent of the Permit and is infeasible to try to implement. It is unreasonable to expect the complete WQMP to be recorded against the title. Besides, it is unclear what happens to the WQMP when this WQMP guidance document is updated or a regional BMP is put in place or if it is determined that the BMPs installed on the property are unnecessary. In addition, I don't think that the Agency, the elected officials or the public want to see WQMPs submitted for approval before a property transfer can occur. This requirement is not included in any MS4 permits or WQMPs that we are aware of and should not be included in this one. The transfer of responsibility for the treatment control BMP is already addressed and there is no need for this over burdensome bureaucratic nightmare.

**Conclusion:**

Based upon the foregoing, we respectfully request that you consider the ramifications of having the Santa Ana Regional Water Quality Control Board adopt the proposed WQMP in its current format. We have raised many issues that should be thoughtfully reviewed and addressed. We are very willing to discuss these issues in more detail at any time.

The stakes are high, especially given California's economic crisis. The absence of meaningful consideration of these issues will have a major impact on affordable housing, jobs, wages and livability.

We are confident that, by working together, CICWQ can assist you in achieving balance that will greatly improve water quality while also meeting our other regional obligations and needs. We thank you for your consideration of our comments.

If you have any questions, please feel free to contact me at (909) 396-9993 or [tpiasky@biasec.org](mailto:tpiasky@biasec.org).

Respectfully,

Tim Piasky  
Director of Environmental Affairs

cc. Matt Yeager